

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 4213

AMERICA DEVERA
3716 Seneca Avenue
Los Angeles, CA 90039

Pharmacy Technician Registration No.
TCH 56043

Respondent.

DECISION AND ORDER

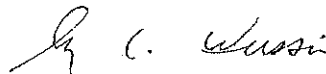
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 8, 2013.

It is so ORDERED on March 7, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MORGAN MALEK
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7

8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4213

11 **AMERICA Q. DEVERA**
12 **3716 Seneca Avenue**
13 **Los Angeles, CA 90039**
14 **Pharmacy Technician Registration No. TCH**
56043

STIPULATED SURRENDER OF
LICENSE AND ORDER

15 Respondent.

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22 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
23 proceeding that the following matters are true:

24 **PARTIES**

25 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27 D. Harris, Attorney General of the State of California, by Morgan Malek, Deputy Attorney
28 General.

1 2. America Q. Devera (Respondent) is represented in this proceeding by attorney
2 Herbert L. Weinberg, whose address is Herbert L. Weinberg, Esq.
3 McGuire Woods LLP
4 1800 Century Park East, 8th Fl.
5 LA, CA 90067.

6 3. On or about April 16, 2004, the Board of Pharmacy issued Pharmacy Technician
7 Registration No. TCH 56043 to America Q. Devera (Respondent). The Pharmacy Technician
8 Registration was in full force and effect at all times relevant to the charges brought in Accusation
9 No. 4213 and will expire on September 30, 2013, unless renewed.

10 JURISDICTION

11 4. Accusation No. 4213 was filed before the Board of Pharmacy (Board), Department of
12 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
13 statutorily required documents were properly served on Respondent on June 29, 2012.
14 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
15 No. 4213 is attached as Exhibit A and incorporated by reference.

16 ADVISEMENT AND WAIVERS

17 5. Respondent has carefully read, fully discussed with counsel, and understands the
18 charges and allegations in Accusation No. 4213. Respondent also has carefully read, fully
19 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
20 Order.

21 6. Respondent is fully aware of her legal rights in this matter, including the right to a
22 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
23 her own expense; the right to confront and cross-examine the witnesses against her; the right to
24 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
25 compel the attendance of witnesses and the production of documents; the right to reconsideration
26 and court review of an adverse decision; and all other rights accorded by the California
27 Administrative Procedure Act and other applicable laws.
28

1 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
2 every right set forth above.

3 CULPABILITY

4 8. Respondent admits the truth of each and every charge and allegation in Accusation
5 No. 4213, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
6 Registration No. TCH 56043 for the Board's formal acceptance.

7 9. Respondent understands that by signing this stipulation she enables the Board to issue
8 an order accepting the surrender of her Pharmacy Technician Registration without further
9 process.

10 CONTINGENCY

11 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
12 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
13 communicate directly with the Board regarding this stipulation and surrender, without notice to or
14 participation by Respondent or her counsel. By signing the stipulation, Respondent understands
15 and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the
16 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its
17 Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or
18 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
19 and the Board shall not be disqualified from further action by having considered this matter.

20 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
21 License and Order, including facsimile signatures thereto, shall have the same force and effect as
22 the originals.

23 12. This Stipulated Surrender of License and Order is intended by the parties to be an
24 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
25 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
26 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
27 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
28 executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 56043, issued to Respondent America Q. Devera, is surrendered and accepted by the Board of Pharmacy.

1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.

2. Respondent shall lose all rights and privileges as a pharmacy technician in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. Respondent understands and agrees that if she ever files an application for licensure or a petition for reinstatement in the State of California, the board shall treat it as a new application for licensure. Respondent may not apply for any license, permit, or registration from the board for three (3) years from the effective date of this decision.

5. Respondent stipulates that should she apply for any license from the board on or after the effective date of this decision, all allegations set forth in the Accusation No. 4213 shall be deemed to be true, correct and admitted by respondent when the board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, including, but not limited to certification by a nationally recognized body prior to the issuance of a new license. Respondent is required to report this surrender as disciplinary action.

6. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$5,000.00 prior to issuance of a new or reinstated license.

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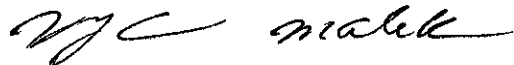
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 1/31/13

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General



MORGAN MALEK
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4213

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13 **Los Angeles, CA 90039**

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
56043

15 Respondent.
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20 Complainant alleges:

21 **PARTIES**

22 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
23 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

24 2. On or about April 16, 2004, the Board of Pharmacy issued Pharmacy Technician
25 Registration Number TCH 56043 to America Q. Devera (Respondent). The Pharmacy
26 Technician Registration was in full force and effect at all times relevant to the charges brought
27 herein and will expire on September 30, 2013, unless renewed.
28

JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b) of the Code states:

"(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

5. Section 4051 of the Code states:

"(a) Except as otherwise provided in this chapter, it is unlawful for any person to manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she is a pharmacist under this chapter."

6. Section 4059 of the Code states:

"(a) A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

7. Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

8. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

1 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
2 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
3 whether the act is a felony or misdemeanor or not.

4 "(j) The violation of any of the statutes of this state, or any other state, or of the United
5 States regulating controlled substances and dangerous drugs.

6 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
7 violation of or conspiring to violate any provision or term of this chapter or of the applicable
8 federal and state laws and regulations governing pharmacy, including regulations established by
9 the Board.

10 (p) Actions or conduct that would have warranted denial of a license."

11 9. Section 11152 of the Health and Safety Code provides:

12 " No person shall write, issue, fill, compound, or dispense a prescription that does not
13 conform to this division."

14 10. Section 11350 of the Health and Safety Code provides:

15 (a) Except as otherwise provided in this division, every person who possesses (1) any
16 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of
17 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
18 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
19 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
20 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
21 licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of
22 Section 1170 of the Penal Code.

23 (b) Except as otherwise provided in this division, every person who possesses any
24 controlled substance specified in subdivision (e) of Section 11054 shall be punished by
25 imprisonment in a county jail for not more than one year or pursuant to subdivision (h) of Section
26 1170 of the Penal Code."

27 COST RECOVERY

28 11. Section 125.3 of the Code provides, in pertinent part, that the
29 Board/Registrar/Director may request the administrative law judge to direct a licentiate found to
30 have committed a violation or violations of the licensing act to pay a sum not to exceed the
31 reasonable costs of the investigation and enforcement of the case.

32 CONTROLLED SUBSTANCES

33 12. Vicodin and Norco are among the brand names for compounds of varying dosages of
34 acetaminophen (aka AP AP) and Hydrocodone, a Schedule III controlled substance as designated
35 by Health and Safety Code section 11056(e)(4) and dangerous drug as designated by Business
36 and Professions Code section 4022. The varying compounds are also known generically as
37 Hydrocodone. These are all narcotic drugs.

1 this reference incorporates, the allegations set forth above in paragraph 13 subparagraph (a),
2 inclusive, as though set forth fully.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 (Prescription Required for Controlled Substance)

5 16. Respondent is subject to disciplinary action under sections 4060 and 4051 of the
6 Code, in that Respondent admitted to taking six thousand (6000) tablets of Norco and Vicodin
7 from CVS Pharmacy, store # 9661, without a prescription and sold them from 2009 to 2010, in
8 violation of sections 4060 and 4051 of the Code. Complainant refers to, and by this reference
9 incorporates, the allegations set forth above in paragraph 13 subparagraph (a), inclusive, as
10 though set forth fully.

11 **FIFTH CAUSE FOR DISCIPLINE**

12 (Possession of a Controlled Substance without a Prescription)

13 17. Respondent is subject to disciplinary action under section 11350 of the Health and
14 Safety Code, in that Respondent admitted to taking six thousand (6000) tablets of Norco and
15 Vicodin from CVS Pharmacy, store # 9661, without a prescription and sold them from 2009 to
16 2010, in violation of section 11350 of the Health and Safety Code. Complainant refers to, and by
17 this reference incorporates, the allegations set forth above in paragraph 13 subparagraph (a),
18 inclusive, as though set forth fully.

19 **SIXTH CAUSE FOR DISCIPLINE**

20 (Possession of a Controlled Substance for Sale)

21 18. Respondent is subject to disciplinary action under section 11152 of the Health and
22 Safety Code, in that Respondent admitted to taking six thousand (6000) tablets of Norco and
23 Vicodin from CVS Pharmacy, store # 9661, without a prescription and sold them from 2009 to
24 2010, in violation of section 11152 of the Health and Safety Code. Complainant refers to, and by
25 this reference incorporates, the allegations set forth above in paragraph 13 subparagraph (a),
26 inclusive, as though set forth fully.

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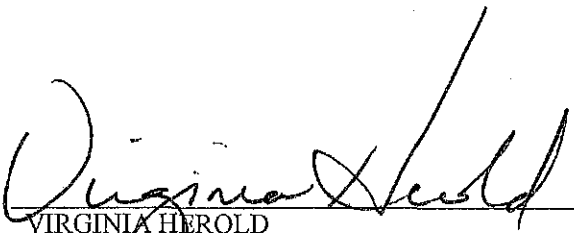
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 56043, issued to America Q. Devera
2. Ordering America Q. Devera to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 6/15/12


VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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